

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-03029-05-CR-W-BP
)	
ELSHABAZZ JACKSON,)	
)	
Defendant.)	

**ORDER AND OPINION RECOMMITTING DEFENDANT'S MOTION FOR LEAVE TO
FILE MOTION TO SUPPRESS OUT OF TIME TO MAGISTRATE JUDGE**

On September 24, 2020, the Honorable David P. Rush, the United States Magistrate Judge to whom this case has been referred for pretrial matters, issued a Scheduling and Trial Order. (Doc. 104.) Among other things, the Scheduling and Trial Order set a deadline of October 14, 2020 for the filing of pretrial motions. (Doc. 104, p. 7.)

On January 25, 2022, Defendant filed a Motion for Leave to File a Motion to Suppress out of time. The motion, (Doc. 182), is one sentence long and provides no reason for granting the relief requested; it only requests leave to file a motion out of time. Later that day, Judge Rush issued a Report and Recommendation denying the request because it “provides no basis for the relief requested, and as a result, Defendant has failed to show good cause as required by Fed. R. Crim. P. 12(c)(3).” (Doc. 183.) Later still on that day, Defendant filed objections and, for the first time, explained why he should be allowed to file a Motion to Suppress out of time.

The Court will not evaluate the matter based on Defendant's belated justification that was not provided to Judge Rush. Instead, pursuant to 28 U.S.C. § 636(b)(2), the Court recommit the matter to Judge Rush so he can reconsider the original motion in light of the justifications Defendant

provides in his Objection. Judge Rush can then determine whether to vacate the original Report and Recommendation and issue a new one.

Nothing herein should be construed as an indication as to what Judge Rush should decide or recommend with respect to the motion.

IT IS SO ORDERED.

DATE: January 27, 2022

/s/ Beth Phillips
BETH PHILLIPS, CHIEF JUDGE
UNITED STATES DISTRICT COURT